

1 [Resolution to establish the Castro/Upper Market Community Benefit District.]

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3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “Castro/Upper Market Community Benefit District (CBD),” ordering the levy and**
5 **collection of assessments against property located in that district for 15 years,**
6 **commencing with fiscal year 2005-2006, and making environmental findings.**

7
8 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
9 California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as augmented by
10 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board
11 of Supervisors adopted Resolution No. 421-05 on June 7, 2005, entitled “Resolution declaring
12 the intention of the Board of Supervisors to establish a property-based business improvement
13 district to be known as the 'Castro/Upper Market Community Benefit District (CBD),' to order
14 the levy and collection of a multi-year assessment, and setting a time and place for a public
15 hearing thereon,” (the "Resolution of Intention"); and,

16 WHEREAS, the Resolution of Intention for the Castro/Upper Market Community Benefit
17 District (the "Castro/Upper Market CBD" or "District"), among other things, approved the
18 Castro/Upper Market Community Benefit District Management District Plan (the "District
19 Management Plan"), the District Assessment Engineer's Report, the Assessment Ballots and
20 the Notice of Public Hearing, that are on file with Clerk of the Board of Supervisors in File No.
21 050924; and,

22 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
23 the proposed formation of the Castro/Upper Market CBD, the proposed levy of assessments
24 against property located within the District for a period of 15 years, commencing with fiscal
25 year 2005-2006, beginning January 1, 2006 and ending December 31, 2020, to be duly

1 published and mailed as required by law, to the record owner of each parcel proposed to be
2 assessed within the District; and,

3 WHEREAS, The Board of Supervisors has caused ballots to be mailed as required by
4 law, to the record owner of each parcel proposed to be assessed within the District; and,

5 WHEREAS, A public hearing concerning the proposed formation of the Castro/Upper
6 Market CBD and the proposed levy of assessments within such District was held on August 2,
7 2005, at 3 p.m., in the Board's Legislative Chambers, located on the Second Floor of City
8 Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

9 WHEREAS, At the public hearing, the testimony of all interested persons for or against
10 the proposed formation of the District, the levy of assessments on property within the District,
11 the extent of the District, and the furnishing of specified types of improvements, services and
12 activities within the District, was heard and considered, and a full, fair and complete meeting
13 and hearing was held; and,

14 WHEREAS, The Board of Supervisors heard and considered all objections or protests
15 to the proposed assessments and the Director of the Department of Elections tabulated the
16 assessment ballots submitted and not withdrawn, in support of or in opposition to the
17 proposed assessments, and the Clerk of the Board determined that a majority of the ballots
18 cast (weighted according to the proportional financial obligations of the property) by the
19 owners of record of the property located within the proposed District did not oppose
20 establishing the proposed district; and,

21 WHEREAS, The public interest, convenience and necessity require the establishment
22 of the proposed Castro/Upper Market Community Benefit District; and,

23 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
24 will be specially benefited by the improvements, services and activities funded by the
25 assessments, and no assessment has been imposed on any parcel which exceeds the

1 reasonable cost of the proportional special benefit conferred on that parcel; now therefore be
2 it

3 RESOLVED, that the Board of Supervisors declares as follows:

4 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
5 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
6 the California Constitution and Section 53753 of the California Government Code with respect
7 to the formation of Castro/Upper Market Community Benefit District. All objections or protests
8 both written and oral, are hereby duly overruled.

9 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
10 property-based business improvement district designated as the "Castro/Upper Market
11 Community Benefit District" is hereby established.

12 **Section 3. DESCRIPTION OF DISTRICT.** The Castro/Upper Market Community
13 Benefit District shall include all parcels of real property within the district, the exterior
14 boundaries of which are as follows:

15 *Market Street* from Octavia to Castro;

16 *Castro* from Market to 19th;

17 *Church Street* from Market to Duboce;

18 *Duboce* from Buchanan to Guerrero;

19 *18th Street* from Collingwood to Noe Street;

20 *17th Street* from Castro to Prosper;

21 *16th Street* from Market to Prosper;

22 *Noe Street* from 17th Street to Beaver.

23 Reference should be made to the detailed map and the list of parcels identified by
24 Assessor Parcel Number contained in the Management District Plan approved by the
25 Resolution of Intention in order to determine which specific parcels are included in the District.

1 **Section 4. FINDING OF BENEFIT.** The Board of Supervisors hereby finds that the
2 property within the District will be benefited by the improvements and activities funded by the
3 assessments proposed to be levied.

4 **Section 5. SYSTEM OF ASSESSMENTS.** (a) An assessment will be levied
5 annually to pay for the activities to be provided within the District, commencing with fiscal year
6 2005-2006, and continuing for fifteen years, ending with fiscal year 2020-2021. For purposes
7 of levying and collecting assessments within the District, a fiscal year shall commence on
8 each July 1st and end on the following June 30th.

9 (b) The total amount of the proposed assessments to be levied and collected for
10 fiscal year 2005-2006 shall be \$392,825. The amount of assessments to be levied and
11 collected in subsequent fiscal years through the first half of fiscal year 2020-2021 may be
12 increased annually by the Board of Directors of the District by an amount not to exceed the
13 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-
14 San Jose Consolidated Metropolitan Statistical Area, or 5 percent, whichever is lower.

15 (c) The method and basis of levying and collecting the assessment shall be as set
16 forth in the District Management Plan. The levy of the assessments shall commence with
17 fiscal year 2005-2006. Each year the assessment shall be due and payable in two equal
18 installments. The first installment shall be due on November 1 of each fiscal year during the
19 life of the District, and shall become delinquent on December 10 of that fiscal year. The
20 second installment shall be due on February 1 of each fiscal year during the life of the District,
21 and shall become delinquent on April 10 of that fiscal year. Nonpayment of the assessment
22 shall have the same lien priority and delinquent payment penalties and be subject to the same
23 enforcement procedures and remedies as the ad valorem property tax.

24 **Section 6. USE OF REVENUES.** The property-related services, improvements or
25 activities for the District include a Public Rights of Way and Sidewalk Operations component,

1 consisting of regular sidewalk and gutter sweeping, periodic sidewalk steam cleaning, spot
2 steam cleaning as necessary, safe passage programs for visitors and employees, minor
3 security services, beautification, decorations; enhanced trash emptying in the public rights of
4 way, removal of bulky items, graffiti removal within 24 hours, installation and maintenance of
5 banners and/or decorations, tree and plant maintenance and planting; equipment, supplies,
6 tools, vehicle maintenance and insurance, maintenance personnel and supervisor costs; a
7 District Identity and Streetscape Improvements component, consisting of special events, web
8 site, pedestrian kiosks and wayfinding signage system, enhanced beautification, flower pots
9 on street lights, marketing and promotions, advertising, walking map, public space
10 development, historical markers and public art; an Administrative and Corporate Operations
11 component, consisting of staff and administrative costs, insurance, office related expenses,
12 financial reporting, developing parking strategies with the City, communications, and
13 repayment of district formation costs; and a Contingency and Reserve component for
14 delinquencies, a reserve and repayment of district formation costs.

15 The above improvements, services and activities will be funded by the levy of the
16 assessments. The revenue from the levy of the assessments within the District shall not be
17 used to provide improvements, services or activities outside the District or for any purpose
18 other than the purposes specified in Board of Supervisors Resolution No. 421-05.

19 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
20 with a separate private entity to administer the improvements, services and activities set forth
21 in Section 6. Any such entity shall hold the funds it receives from the City and County of San
22 Francisco ("City") in trust for the improvements, services and activities set forth in Section 6.
23 Any entity that holds funds in trust for purposes related to the contract shall, at no expense to
24 the City, provide an annual independent audit report by a Certified Public Accountant of all
25 such funds. The audit may be funded from assessment proceeds as part of the general

1 administration of the District. At all times the Board of Supervisors shall reserve full rights of
2 accounting of these funds. The Mayor's Office of Economic and Workforce Development
3 shall be the City agency responsible for coordination between the City and the District.

4 **Section 8. AMENDMENTS.** The properties in the District established by this
5 resolution shall be subject to any amendments to the Act and Article 15.

6 **Section 9. RECORDATION OF NOTICE AND DIAGRAM.** The County Clerk is
7 hereby authorized and directed to record a notice and an assessment diagram pursuant to
8 Section 36627 of the California Streets and Highways Code following adoption of this
9 Resolution.

10 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
11 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
12 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
13 referred to in the District Management Plan. Each year, the Assessor shall enter on the
14 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
15 and such assessment shall be collected in the same manner as the County property taxes are
16 collected.

17 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the
18 District are used to enhance the current level of services provided by the City within the
19 District, the establishment of the District will not affect the City's policy to continue to provide
20 the same level of service to the areas encompassed by the District as it provides to other
21 similar areas of the City for the duration of the District, provided, however, that in the event of
22 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
23 municipal services citywide, including within the District.

24 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has
25 determined that the actions contemplated in this Resolution are in compliance with the

1 California Environmental Quality Act (California Public Resources Code sections 21000 et
2 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
3 _____ and is incorporated herein by reference.

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